

From: Steve McRae [<mailto:smcrae@magicvalleylegal.com>]
Sent: Wednesday, August 15, 2018 3:13 PM
To: Mednick, Richard <Mednick.Richard@epa.gov>
Subject: RE: Signed Consents

Richard,

I have just talked with Mr. Tibbets, Representative of Diconia, LLC who has authorized me to communicate to you that pursuant to Paragraph 33 of the Administrative Order Directing Compliance with Request for Access, Mr. Tibbets intends to comply fully with said Order.

While, as I have indicated previously, we do intend to submit in writing a disputed to the Statement of Facts in said order, our submission of the same does not affect Mr. Tibbet's intention to fully comply with said Order.

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From: Mednick, Richard <Mednick.Richard@epa.gov>
Sent: Wednesday, August 15, 2018 1:33 PM
To: Steve McRae <smcrae@magicvalleylegal.com>
Subject: RE: Signed Consents

Steven,

I appreciate the update. Stephen Ball heard from with Mr. Tibbets this morning at about 8:38 AM Seattle time, and Mr. Tibbets indicated he was going to bed for about 7 hours. If Mr. Tibbets is available after he arises later this afternoon Seattle time, it would be helpful for EPA to know more before the close of business today about his expected compliance with the Access Order. EPA is under a tight time frame due to the need to respond to the potential release of asbestos at the Site.

Thank you,

Richard

Richard Mednick
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Regional Judicial Officer
U.S. EPA I Region 10
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(206) 553-1797

From: Steve McRae [<mailto:smcrae@magicvalleylegal.com>]
Sent: Wednesday, August 15, 2018 11:24 AM
To: Mednick, Richard <Mednick.Richard@epa.gov>
Subject: RE: Signed Consents

Richard,

Thank you for the follow up. I will have to discuss the issue with my client (again, late tonight). As for the Access Order, pursuant to Paragraph 30 of the Access Order, I will submit our written objections by tomorrow at 12:00. I discussed this with Mr. Tibbets this morning and have not authority to act in any alternative way. Again, I'll have to discuss this in our odd hours, as I have no way of communicating with Mr. Tibbets until he awakes later.

Thank You.

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From: Mednick, Richard <Mednick.Richard@epa.gov>
Sent: Wednesday, August 15, 2018 11:59 AM
To: Steve McRae <smcrae@magicvalleylegal.com>
Cc: Roberts, Brad <roberts.brad@epa.gov>
Subject: RE: Signed Consents

Steven,

Thank you for the information.

EPA needs to be provided with an unconditional written statement indicating that Brian Tibbets/Diconia will comply with the Access Order. Please have a look at paragraph 33 of the Access Order for details about this requirement. EPA is preparing to initiate emergency response work at the Site beginning tomorrow (Thursday) at noon, so this matter remains urgent.

As for the conference request to discuss the Access Order, I am available anytime today except 2:00 to 2:30. Please let me know what works for you.

Respectfully,

Richard

Richard Mednick
Associate Regional Counsel

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From: Steve McRae [<mailto:smcrae@magicvalleylegal.com>]
Sent: Wednesday, August 15, 2018 7:55 AM
To: Mednick, Richard <Mednick.Richard@epa.gov>; Roberts, Brad <roberts.brad@epa.gov>
Subject: Signed Consents

Brad and Richard,

Attached are signed consents that I received from Brian Tibbetts this morning. However, please note that my client has changed the language regarding threats – he made these changes without my involvement. I spoke with Mr. Tibbets, and he feels that the threat of punishment in the Access Order, as well as what he perceives to be general threats throughout the process makes it to where he cannot sign the original documents, given the language of “threats”. I have counseled with him regarding the same – and in particular the threat of monetary punishment for failure to comply with the Access Order. I see the threats in the Access Order as separate, but Mr. Tibbets remains uncomfortable signing the original consents. It is my understanding that Mr. Tibbets has communicated with Mr. Ball regarding these changes as well.

In the event these consents are acceptable, pursuant to my conversation with Brad Roberts yesterday, it is my understanding that his division will collect samples during the access and cleanup. I remain at a loss in the ability to communicate with my client, given that he is in China with very limited access to telephone. Our conversations this morning were broken up and difficult to maintain. It is now nighttime there, and I do not have access to speak with my client until later this evening (in the USA).

I am also in receipt of the Access Order and Cover Letter. Pursuant to Paragraph 30 of the Access Order, we are requesting a conference as set forth therein, and it is our intention to submit written comments or statements of position contesting statements of fact raised in the Access Order before the time of the conference.

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